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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,226	03/07/2001	Mika Aalto	PM 276662	1688
909	7590	07/08/2004	EXAMINER	
PILLSBURY WINTHROP, LLP			CHOUDHURY, AZIZUL Q	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			2143	8

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/762,226

Applicant(s)

AALTO ET AL.

Examiner

Azizul Choudhury

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/7/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/7/01</u> . | 6) <input type="checkbox"/> Other: _____  |

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***Detailed Action***

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "substantially" is considered broad and should be replaced by a more finite term.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Malkin et al (US Pat No: US006061650A), hereafter referred to as Malkin.

1. With regards to claims 1 and 8, Malkin teaches a method for connecting one of several customer premises equipment, or CPE, via an ATM network to one of

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several service providers, or SPs, said method comprising: connecting each CPE to the ATM network via a corresponding network termination point, or NT; and forming an access server function, or ASF, having a permanent virtual connection to each NT and a connection to each SP; characterized in that a tunneling protocol is established on said permanent virtual connection between each NT and said ASF, said tunneling protocol being able to support an integrated signaling protocol; the CPE or its user selects an appropriate SP by using said integrated signaling protocol; routing from said CPE to said selected SP is performed by said ASF; and said ASF connects the CPE to the selected SP using said integrated signaling protocol (Malkin teaches a design that allows remote devices to make network connections (column 1, line 64 – column 2, line 5, Malkin). The design uses CPEs (column 2, line 52, Malkin). In addition, Malkin's design allows for tunneling (column 2, line 59, Malkin) and ATM network (column 2, line 51, Malkin). The design allows the CPE to connect to a server (remote access server) through a gateway in order to reach a remote node (Figure 1, Malkin). By featuring such traits, Malkin's design has the means to perform the tasks claimed).

2. With regards to claims 2 and 9, Malkin teaches a method, characterized by providing one permanent virtual connection from the ASF to each SP (Malkin's design allows for remote connections (column 2, line 20, Malkin) and virtual circuits (column 2, lines 51-52, Malkin). A virtual circuit is a virtual connection).

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3. With regards to claim 3 and 10, Malkin teaches a method, characterized by providing a pool of permanent virtual connections from the ASF to each SP; and allocating one connection to each NT from said pool (Malkin's design allows for a CPE to access a remote access server via a gateway, to make a connection to a remote node (Figure 1, Malkin). A remote node is able to be a SP. No limitation is provided as to the number of remote nodes accessible and the design itself is not limited by ability to access a plurality of remote nodes. Furthermore, only one connection must be chosen (as claimed) since the user (client) cannot make use of more than one connection).

4. With regards to claims 4 and 11, Malkin teaches a method, characterized by establishing one switched virtual connection (SVC) from the ASF to each SP, on the basis of signaling which the ASF receives from said CPE via said tunneling protocol (Malkin's design allows for a CPE to access a remote access server via a gateway, to make a connection to a remote node (Figure 1, Malkin). A remote node is able to be a SP. No limitation is provided as to the number of remote nodes accessible and the design itself is not limited by ability to access a plurality of remote nodes. In addition, tunneling is allowed in Malkin's design (column 2, line 59, Malkin)).

5. With regards to claims 5 and 12, Malkin teaches a method, characterized by establishing said tunneling protocol only in response to detecting appropriate activity in said CPE (Malkin's design uses both CPEs (column 2, line 52, Malkin)

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and tunneling (column 2, line 59, Malkin). For tunneling to occur, the CPE's activity must be appropriate as claimed).

6. With regards to claims 6, Malkin teaches a method, characterized by establishing said tunneling protocol permanently and initiating said integrated signaling and authenticating the user of said CPE only in response to detecting appropriate activity in said CPE (Malkin's design uses both CPEs (column 2, line 52, Malkin) and tunneling (column 2, line 59, Malkin). In addition, Malkin's design allows for authentication (column 2, line 44, Malkin)).

7. With regards to claim 7, Malkin teaches a method, characterized by authenticating the user of said CPE both by said ASF and by the selected SP (Malkin's design allows for authentication (column 2, line 44, Malkin). In addition, it is inherent that a Service Provider will have it's own authentication process).

8. With regards to claim 13, Malkin teaches a network element (ASF), characterized in that it is arranged to cooperate with an NT between itself and each CPE, said NT being arranged to provide a separate tunnel from itself to substantially each CPE and to combine the separate tunnel into fewer tunnels, preferably a single tunnel, from itself to the ASF (The claimed trait is possessed by the gateway of Malkin's design (Figure 1, Malkin)).

**Remarks**

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After careful review of the application, the examiner failed to note any truly unique traits within the design claimed. The claims provided are seen as being general and would benefit from the inclusion of more detailed specifications. In addition, should the applicants have any further details regarding their design that would present their design as being truly unique over the prior art provided by the examiner, they are encouraged to amend the specifications and claims to reflect such changes.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azizul Choudhury whose telephone number is 703-305-7209. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AC

  
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